

Approved as Amended: February 4, 2004

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL,
SPECIAL REDEVELOPMENT AGENCY MEETING, AND
MORGAN HILL FINANCING AUTHORITY COMMISSION
MINUTES – JANUARY 14, 2004**

CALL TO ORDER

Mayor Pro Tempore/Vice-Chairperson/Vice-President Sellers called the special meeting to order at 5:17 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency/Authority Members Chang, Sellers, Tate
Late: Mayor/Chairman/President Kennedy (arrived at 5:25 p.m.) and
Council/Agency/Authority Member Carr (arrived at 5:40 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary/Commission Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Action: *By consensus, the Council/Agency Board **agreed** to conduct the closed sessions followed by the Architectural and Site Review Board interviews.*

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: Cole v. City of Morgan Hill
Case Number: SJ WCAB 0144030

3.

EXISTING LITIGATION:

Legal Authority: Government Code 54956.9(a)
Case Title: Bob Lynch Ford, Inc. v. Timothy Paulus, et al
Case Name/No.: Santa Clara County Superior Court Case No. 1-03-CV 001657
Attendees: City Manager, City Attorney

4.

EXISTING LITIGATION:

Legal Authority:	Government Code 54956.9(a)
Case Title:	Oregon Mutual v. City of Morgan Hill
Case Name/No.:	Santa Clara County Superior Court, Case No. 1-03-CV005398
Attendees:	City Manager, Public Works Director, Special Counsel Mark Strombotne, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore/Vice-Chairman Sellers opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore/Vice-Chairman Sellers adjourned the meeting to Closed Session at 5:19 p.m.

Mayor/Chairman Kennedy arrived at 5:25 p.m. and participated in closed session discussions.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 5:35 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy announced that no reportable action was taken in closed session and that the Council/Redevelopment Agency would reconvene to closed session at the conclusion of the meeting.

City Council Action

OTHER BUSINESS:

1. **APPOINTMENTS/INTERVIEWS TO THE ARCHITECTURAL AND SITE REVIEW BOARD (ARB) AND CONSIDERATION TO AMEND THE MUNICIPAL CODE REGARDING TERMS OF BOARDS AND COMMISSIONS**

Mayor Kennedy indicated that it would recommend the reappointments of incumbent Board Members Jim Fruit, Jerry Pyle and Rod Martin to the Architectural and Site Review Board.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Carr absent, **Confirmed** the Mayor's Appointment of Incumbent Board Members Jim Fruit, Jerry Pyle and Rod Martin to Serve Terms Expiring June 1, 2005.*

Council Member Carr entered and took his seat on the Dias.

Council Services and Records Manager Torrez presented the staff report, recommending that the Council interview applicants Lori Cain and James Gilbert Carrillo to fill a vacancy on the ARB. She informed the Council that the appointment would be to fill an unexpired term ending March 1, 2004 at which time, the individual appointed would be invited to reapply for an extended two-year term.

The City Council interviewed applicants Lori Cain and James Gilbert Carrillo.

Action: *Based on a ballot vote, Ms. Cain was appointed to fill an unexpired term ending June 1, 2004.*

Mayor Kennedy inquired whether Mr. Carrillo would be interested in serving as a Board alternate to which Mr. Carrillo responded that he would.

Council Member Carr indicated that he was in general support of extending the terms of office to four years. He stated that he would like to have the general discussion of recruitment to fill vacancies on boards, commissions and committees as recruitment impacts the City Clerk's office. He felt that this is a topic that should be discussed as part of the Council's Goal Setting Session.

Action: *By consensus, the City Council **Directed** Staff to Return with a Draft Ordinance Amending the Terms of Office from two to four years, staggering the terms, including the ability for the Council to appoint Mr. Carrillo or other citizens as alternates to the Board.*

City Council and Redevelopment Agency Action

WORKSHOP:

2. WORKSHOP ON REQUEST FOR PROPOSALS FOR THE POLICE FACILITY (17605 MONTEREY ROAD)

Council/Agency Member Tate indicated that the Economic Development Committee (EDC) would be returning to the Council/Agency Board on January 21, 2004 with a recommendation regarding the two proposals before the Council/Agency Board this evening.

Council/Agency Member Carr stated that hearing the presentations this evening was important and that the questions raised will be answered to help the EDC return to the Council/Agency Board with a recommendation.

Director of Business Assistance and Housing Toy presented the staff report. He indicated that since October 2003, the EDC, consisting of Council Members Carr and Tate, have met several times reviewing the proposals for the reuse of the current police station. Since the process started in May

2003, project proponents have been involved in the process for the past nine months. He informed the Council/Agency that staff recommends that each project proponent be given 20 minutes to provide a presentation and answer questions. He indicated that the EDC will save any discussion regarding the proposals until the Council/Agency Board meeting of January 21 where they would return to the Council/Agency Board with a recommendation.

Mayor/Chairman Kennedy outlined the process to be followed this evening, indicating that each project proponent would be given 20 minutes to make a presentation. He clarified that the Council/Agency Board would not be making a decision this evening.

Rick Page addressed his project, indicating that he has provided the Council/Agency reams of documentation and very specific information on his proposal. He identified his project team: Ron Erskin and Craig Kennedy, Coast Range; Charles Weston, Weston-Miles Architects; Mike Milla, Collier International; Larry Kent, Kent Construction; and Bob Stoddard. He stated that his proposal was in response to the City's solicitation to establish a retail restaurant or entertainment venue in the downtown area. It was his goal to adhere to the business and design concept set forth by the Council/Agency Board in the Redevelopment Vision and Plan constructed with various consultants, business leaders and community leaders/citizens. The team tried to integrate the operational aspect of the brew house restaurant into the community and incorporate a spirit of giving back to the community. Also, to create a menu of financial structures that could make a project of this scope and complexity work for everyone. He felt that the genesis of this proposal achieved these goals. He identified the advantages of his proposal as follows: 1) an experienced restaurant franchise team is willing to take the risk and operate in this building; 2) capitalization – this proposal plans to invest \$2.6 million in the restaurant and the building; 3) risk management – he has a separate developer and a separate operator. Therefore, if the restaurant is in trouble, the building would still function. 4) This is a local team and is vested in the community. 5) Community spirit – he is pledging up to \$10,000 as the business grows to local youths for scholarships and outreach programs. He indicated that he has met with Daryl Manning of the Community Foundation, working on a proposal such that should this project come to fruition, the Community Foundation would match the \$10,000. This would be equal to \$20,000 in annual pledges/donations to youth. Benefits of his proposal include: 1) Took things verbatim out of the City's downtown vision and redevelopment plan and incorporating them into his design and business concept. 2) There is an estimated \$20,000-\$30,000 in incremental annual sales tax to the City as part of this proposal. 3) Approximately 60 new jobs to be created for local workers with an estimated \$750,000 in salaries and benefits that would go into the economy. 4) With 1.5 – 2 table turns per day, the project will draw approximately 125,000 visits to the downtown annually. He felt that the 1.5-2 table turns is a realistic number. 5) He felt that the design establishes a northern gateway that incorporates some of the best elements of the best architecture seen in the downtown.

Ron Erksin indicated that this is a two party proposal as he would be acting as the operator. He introduced Craig Kennedy, a CEO and partner in Coast Range Brewing Company, indicating that he is the founder and president. Bob Stoddard is the founder and partner in the Stoddard Restaurants in Sunnyvale and Campbell. He stated that this is a local team and that he has been in the community for 21-years. He was a builder in Morgan Hill for a 10-year period, building approximately 60 homes in the

community. Mr. Kennedy has lived in the south county for approximately 16 years (12 in Gilroy and 4 years in Morgan Hill). Bob Stoddard, while no longer living in Morgan Hill, still has children in Morgan Hill and is attached to the community, spending a lot of time here. He indicated that the team calls Morgan Hill its home. He said that an important element to the trio is experience. When Mr. Page first approached him about this idea, he was not interested initially as he knows nothing about restaurants but knows beer. When Mr. Stoddard was mentioned, he felt that he was the missing link to the proposal as he is experienced in the restaurant business. He said that each member of the team are entrepreneurs who enjoy successes in businesses. The team understands that an effort like this does not just happen, but would take a lot of effort. He said that the team has a great deal of respect and understanding for the challenges of opening this restaurant. The team envisions this to be a mid scale, affordable restaurant and that good food will be served with a dynamic menu and casual atmosphere with a focus on comfort. This would be a place that individuals will want to linger. Pool tables and video games are not being proposed as a family dining experience is proposed that will focus on fresh locally brewed beer. The team is looking at ways to generate interest in this restaurant. This may result in getting involved in youth sports, or reaching out to businesses in the various local charitable groups or clubs. Anyway that the team can reach out to businesses, groups, and/or families is something that they would have to do on an active basis. He felt that this would be important for the success of this business. He indicated that Mr. Stoddard has suggested family theme nights. The team is looking at ways to keep the place interesting and dynamic. He stated that the proposal is a brew house and not a brewery. He said that there is still an interest in providing flavourful beers and that the team feels that the necessity to see the hardware that makes beer on the premise is not important and may be a liability from a business stand point. He said that there is a certain amount of square footage that would take away tables that generates income and limits flexibility should trends change. There is also the overhead of a brewery, including sewage effluent and a capital cost of installing a brewery. He stated that the team wants to make the restaurant focus on fresh beers but that beer would not be produced on site. He felt that this is a strong team with experience and an understanding of this business combined with a concept that the team believes will enhance chances of success and stability at this site.

Council/Agency Chang indicated that she spoke to both project proponents. She inquired as to the business term and what is being offered by this proposal to the City.

Mr. Page responded that he has three options that he is proposing. In going through the proposal, the team thought a lot about the financial conditions. He said that if the objective of the Council/Agency Board were to bank as much money as possible immediately, he did not believe that this would be what the City would want to do with the building. He felt that the City may want to renovate the building and turn it into an office building and not downsize feasible space. It was the team's belief that the City could get up to \$1 million for the property. However, the Council chose to solicit RFPs for projects that would adhere to the development plan. When they structured the financials, they looked at what the leasable space that would support a restaurant and not over burden it. They also looked at the development cost to convert the building from its current use to a restaurant/entertainment use. When they did this, they downsized the leasable space which potentially lowered the building's value. He noted that in the Council's packet were two different quotes provided by Larry Kent based on the architectural design that comes up to approximately \$1.2 million. He said that option 1 does not use any

RDA monies but asks the Council to grant the property because the post redevelopment value is equal to the cost of redeveloping the building. He stated that he would agree to pay the necessary fees. Therefore, he is not asking for the City to discount the fees. He would agree to the revenue generations for City sales tax and property taxes. He also offered a second proposal but indicated that a bank will not finance a proposal that costs more than the value of the property. He indicated that he has worked with a bank on a financing proposal. Should the City want more for the building, thought has to be given to finding other ways to finance the proposal so that it pencils in. He stated that he is looking for 10%-15% rate that is fair and reasonable, lower than what most developers would ask for. He informed the Council/Agency that he structured two additional options: one for \$350,000 and the other for \$500,000. He stated that the higher the price you go, the more burdensome it becomes financially and that he would have to figure out a way to make it work. If he had to pay \$1 million for the building and that it costs \$1.2 million to redevelop the property, this would result in a cost of \$2.2 million and that he would have to charge \$3 per square feet. He felt that this was not reasonable as far as market rates for a lease are concerned. In order for a brew pub to be viable, they would have to charge more for food and/or they would have to have an average of four table turns per day. He felt that this would be unrealistic. He stated that his options are structured so that they pencil in for the brew pub, making the use viable to give them the best chance to be successful and works within the financial constraints of the bank in order to have a reasonable rate of return.

Council Member Chang requested that Mr. Page elaborate on options 2 and 3.

Mr. Page indicated that with option 2, he would pay \$350,000 for the property and that he would ask the City to finance the deal because it falls out of the bank's lending parameters. This would be a 2% loan in principal and interest over a five year period at which time he would refinance the property. In option 3, he would agree to pay \$500,000 for the building. The City would finance the loan and that it would be an interest only loan. He would take the cash that is generated from the project and bank it in order to meet the loan to value. He stated that both proposals are close to being refined but that he has not gotten close to exclusive negotiations yet.

Geno Acevedo, El Toro Brewing Company, indicated that his proposal is more than a concept; it is a detailed plan, a vision that has been developed and evolved over 14 years. He stated that he proposes to operate a brew pub, with a restaurant and functional on site brewery. To be featured are fresh high quality, award winning beer and food at moderate prices. His proposal would include the following: large appetizer menu, foosball, darts, evening entertainment, dancing, bar, big screen, and several televisions. He presented a visual presentation to give a better visual impression on how he plans to transform the building into a brew pub. He indicated that the design proposes to make a gateway statement. He proposes to use both modern (e.g., glass and steel) and classic elements (e.g., brick work, shaped facades, lots of windows, and a gateway statement mural, if supported by the Council and approved by the ARB). He depicted the pub layout and bar, indicating that an important feature of the bar area is the incorporation of the poppy jasper rock into the bar. Also proposed is the incorporation of a stage and dance floor area. The brew house would be seen from the outside and up to a 90-seat patio area is proposed. He indicated that the former Bank of America vault would be set aside for private parties, meetings and special occasions. The upstairs area would afford a large meeting room and

includes a dining area or can be used for receptions or a VIP area for special events. He stated that the office would overlook the entire operation from the upstairs area. He stated that a bridge way is designed to go between the game area and the dining area upstairs. He stated that the brew house proposed would be aesthetically pleasing, would create an ambiance and would be functional. He would be able to brew new cool brews that he cannot do at the scale that he does now. The facility would be used to entice home brew clubs and their reestablishment. He stated that he intends to hire another brewer to do the brew work. He indicated that he has won several awards over the years.

Mr. Acevedo addressed his Business Plan, indicating that it was based on industry accepted and developed data. He indicated that he has taken his data from the current National Restaurant Association and Operational report of 2002 and has applied conservative numbers to his business plan. He felt that he has shown that even using conservative numbers that his proposal can be very successful. He indicated that he also used other reliable sources for his data to develop his business plan. He indicated that he recently received a letter of interest from Heritage Bank. The pro forma shows that his proposed use would be profitable, even at 1.5 to 2 table turns. He indicated that at 1.5 table turns is where his proposal becomes profitable. He felt that the 1.5 table turns should easily be attained using the industry data, given the demographics and population of Morgan Hill and the surrounding areas. He felt that keeping the start up costs down will be the key to helping his proposal succeed. He would acquire first class used equipment that can be found in public auctions.

Mr. Acevedo identified activities to be incorporated to attract individuals to his proposed establishment such as darts, foosball, the televisions, music, dancing, and stand up comedians. He addressed his proposed “Morgan Hill History Mural” which is the naming of the El Toro Mountain based on the story of Bret Hart visiting Martin Murphy. He felt that the mural could be considered public art. He indicated that he helped develop the downtown design plan and that he has incorporated items from the plan into his proposal. He said that the pub’s interior would be multi functional, high energy and would provide something for everyone. An idea is being considered in using pub carriage rides through the downtown as part of the marketing ideas to attract and keep loyal customers, friends and visitors. He stated that he has committed to the betterment of the community and that this would only increase with his brew pub influence. He stated that he helps schools and would continue to do so.

Mayor/Chairman Kennedy said that it was mentioned that having a brew pub with brewing activity on site was passé.

Mr. Acevedo said that this was an incorrect statement. He felt that brewing on site would create ambiance and excitement. If Page Holding is chosen, he felt that it would be just another bar and grille. He stated that he and his wife will be the main hands on operators of the restaurant. He said that he has spoken to general managers in the trade. He stated that there are a lot of food people out there who are general managers, managers, and individuals with experience who would be recruited. He has spoken to the principals at Mission College and that he could go there to help select management as well as a chef.

Council/Agency Member Chang stated that she was somewhat confused about the financing plan. She requested that Mr. Acevedo identify his financial plan.

Mr. Acevedo said that a lot of the information that he would like to cover would have to be covered under the exclusive right to negotiate but that he would cover the information he has already submitted to clarify points. He stated that he offered \$20 per square foot but that he did not offer anything for the building. He explained that the building has value but that the value is offset by the amount of improvements would be necessary to transform the building from the office/public use into a restaurant. He would also have to seismically refit the building and make it ADA capable. In having to make these extensive renovations, he has assigned zero value to the building. However, the \$20 per square foot was assigned for the land and that the land is approximately $\frac{3}{4}$ of an acre. This would equate to a \$650,000 offer. He stated that his budget is \$1.8 million and that he can absorb some more. He stated that he was confident that he can bring the proposal in at \$1.75 million. He indicated that there were other means of financing as well. He said that the bank may be willing to lend if you only use one source of equity. However, if there are multi sources of equity, the bank will loan you based on what your income can show and the confidence level of the business plan as well the collateral that you have to present.

Council//Agency Member Chang inquired how the proposal would work if the cost exceeded \$1.8 million.

Mr. Acevedo responded that if the proposal exceeds his budget, he would have to tap into the family's equity. He indicated that his corporation is family held and that he has all his family members to seek financial assistance. He said that depending on how things are presented and what other incentives could be offered by the City through negotiations, the numbers could change, going up or down depending on whether fees are waived, deferred or how things are negotiated. He indicated that he can proceed with the project with more than \$1.8 million.

Mayor Pro Tempore/Vice-chair Sellers said that the Council/Agency Board would be discussing the proposals again next week. He stated that it would be a difficult decision to choose a proposal. He appreciated the information provided by both proposers. He said that the public will not ask why the Council/Redevelopment Agency chose a particular concept but will ask why the City gave away a City asset and chose this direction. He felt that the Council/Agency Board will have to clearly define what its thoughts are and identify at what point the proposal is viable or not viable and a good return investment for the City. He requested that the economic viability be addressed by both project proponents. He wanted to make sure that a project selected will be a viable proposal based on the significance of the location and that the City is going in a specific direction with the ability to go in another direction should the business not prosper. It is his hope that the Council/Agency Board will identify short term and long term goals to make the proposal prosper. He thanked both groups for the submittal of their creative proposals.

Mayor/Chairman Kennedy stated the Council/Agency Board's appreciation of hearing the proposals presented by both teams as they were well done presentations.

Mayor/Chairman Kennedy opened the floor to public comment.

Rich Burgin, Rosey's at the Beach, stated that he has known about the offers for some time now. However, a few weeks ago, it came to his attention that this may be some type of give away by the City as far as the building, low interest loans or funds being made available. He said that he would like to keep an eye on this process to make sure that this is not the case. As far as the restaurant usage, he said that if individuals come in and pay fair prices and bring in their own project, he would be behind them 100% and help them in whatever he can. However, if the playing field is not levelled where an individual is given a \$1 million subsidy, this is not an action that he would support.

Mayor/Chairman Kennedy indicated that the Council/Agency Board would be making a decision on the proposals at their meeting of January 21, 2004 and that there would be more opportunity for additional public comment at that time as well.

Action: *The Council/Agency Board **Received** Presentations on the Two Proposals for Police Facility at 17605 Monterey Road. The final Subcommittee decision will be presented at the Council meeting of January 21, 2004.*

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation Mayor/Chairperson Kennedy, Einar Anderson led the Pledge of Allegiance.

INTRODUCTION

Recreation and Community Services Manager Spier introduced recently hired Recreation Supervisor for the Aquatics Center, Aaron Himelson.

CITY COUNCIL REPORT

Council Member Chang reported that the Dayworker Center Committee pulled permits and are scheduled to assemble the units donated by the Gilroy Unified School District on January 19. It is her hope that within a week, the units would be moved onto the current site. She stated that it was her understanding that the interim use ordinance was passed by the Planning Commission and that it will be coming before the Council for review and approval soon. She indicated that a fundraiser event was recently held and that the results were not as hoped. She stated that it is her hope that within 2 months a grand opening event will be held for the dayworker center.

CITY MANAGER REPORT

City Manager Tewes reported that it is becoming difficult for the City to live within its means in light of things that are taking place at the State level. He said that due to the actions of the previous governor and legislature in adopting the state budget, it was necessary for the City to estimate a reduction in revenue attributable to the motor Vehicle License Fee (VLF) by approximately \$400,000. The new

governor took action to restore the backfill of the VLF. With this action, it appears that the City will lose another \$200,000 in this current fiscal year attributable to all of the mechanics in the VLF. Therefore, by the end of the fiscal year (June 2004), the City will not receive \$600,000 that the City otherwise counted upon. In proposing the State budget for next year, the governor has proposed an approach that has been used in the past by other governors and legislatures to shift property tax revenues that would otherwise go to cities and counties. Unlike the VLF, the governor is proposing an ongoing shift of property tax. He said that this property tax shift and other minor issues being proposed would have a continuing affect in the loss of another \$400,000 a year in the City's budget. When staff works on the budget to be recommended to the Council in May 2004, difficult choices will need to be made about the level of services and the way in which they are provided to the community. He stated that the governor's proposal will have an adverse impact on the City's revenues to the tune of approximately \$400,000 this year and each continuing year thereafter if his proposal is enacted.

CITY ATTORNEY REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not listed on the agenda.

Einar Anderson addressed the need for a new library in Morgan Hill. He thanked Mayor Kennedy, the City Council, and staff for their continued contribution in planning for a new library and for helping in the presentation of proposals at the State level for funding from the Library Bond Act. He said that unfortunately, these efforts have not produced the desired results to date. If the City does not receive an award of funding in the 3rd bond application, the need still remains. He noted that the existing library was built in 1974 and served a population of 7,500. Now, the City has a population of over 42,000 with an expected population of 53,000 in 2020. He did not believe that the existing facility would accommodate future needs. He noted that the current library has 50% of the population with library cards, averaging approximately 1,000 patrons per day. Many times the library is so crowded that you cannot use a computer or find a place to sit. He felt that Morgan Hill will fall behind other cities in the County if the City does not address these needs. He identified the new libraries that have been built within the County and felt that there were ways to achieve the construction of a new library. He requested that the Council explore alternative funding to construct a new library such as reallocation of RDA funds or finding other resources in order to be able to satisfy the need of a new library.

Roger Knopf addressed the library facility and funding for continued library operation and staffing. He said that he has a sense that the City is coming to the issue of needing to prioritize funding sources available for several public facilities. He recommended that the library be the first choice for funding as opposed to some of the other choices before the City. He stated that he has always been a supporter of public education and felt that a community library is an important element of education for all ages. He

stated that he strongly supports the construction of a new library. He indicated that the County has placed Measure B on the March 2, 2004 ballot that would provide additional funding over a seven year period for the continuation of the present tax to support the operation and staffing at about the current level. If the current tax is not approved for extension in March, the funding source will go away; resulting in the library operating hours decreasing from 54-hours per week to approximately 30-hours per week. This would result in the operation of a new or existing library facility at 55% of where the City is today. As the co-chair of the campaign for Measure B with Jeanne Gregg, he invited everyone in the community to a campaign kickoff to be held on Saturday, January 17 at 1 p.m. at the Morgan Hill House.

Jeanne Gregg, chairperson for the Library Commission and co-chair of the tax campaign for Measure B, stated that should the library bond measure not pass, the library's hours would go from 54 hours per week to 30-32 hours per week. She said that this is a big reduction and that it would take a lot of work on everyone's part to get this measure passed. She thanked Mayor Kennedy and Council Member Tate for their sincere regard for the whole issue of the library as they are concerned about the library and want to do whatever is possible to get an improved facility. She stated that she just spoke with Nancy Howe, supervisor of the Morgan Hill Library, who advised her that there is only one library in the entire Morgan Hill School District. Therefore, the City's library serves de facto as a school library. She felt that it was important to realize that the library is not only a recreational facility but serves serious purposes.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** Consent Calendar Items 3-5, as follows:*

3. **MEASURE B – A BALLOT MEASURE TO CONTINUE SUPPORT FOR SANTA CLARA COUNTY LIBRARIES**
Action: **Supported** Resolution No. 5756 for the Measure B Ballot for Operational Library Support.
4. **RESOLUTION FOR CYCLE III PROPOSITION 14 LIBRARY BOND ACT GRANT APPLICATION**
Action: **Adopted** Resolution No. 5757, Authorizing City Staff to Submit Grant Application to the State of California Office of Library Construction on or Before January 16, 2004.
5. **CONTRACT FOR CONSULTANT SERVICES FOR ENVIRONMENTAL REVIEW OF THE IMPLEMENTATION OF THE DOWNTOWN DESIGN PLAN**

Action: 1) **Approved** a Contract for Consultant Services to Complete the Downtown Plan Environmental Review; and 2) **Authorized** the City Manager to Execute a Consultant Services Agreement with David J. Powers & Associates for Contract Consultant Services at a Cost Not to exceed \$109,000; Subject to Review and Approval by the City Attorney.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 6-7, as follows:

6. **MINUTES FOR JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF DECEMBER 10, 2003**

Action: 1) **Approved** the minutes as submitted.

7. **MINUTES FOR JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF DECEMBER 17, 2003**

Action: 1) **Approved** the minutes as submitted.

Council Member Tate noted that the action taken with Consent Calendar item 3 is one whereby the Council stated its endorsement of Measure B that would fund the operation of the library.

City Council Action

PUBLIC HEARINGS:

8. **APPEAL OF FINDING OF INCONSISTENCY WITH THE GENERAL PLAN AND REJECTION OF MEASURE P APPLICATION MP-03-09. APPEAL APPLICATION AP-03-07: WEST MAIN-VIERRA**

Mayor Pro Tempore Sellers recused himself from this item due to a potential conflict of interest. He stepped away from the Dias.

Council Member Chang indicated that she and City Clerk Torrez spoke to the Fair Political Practices Commission and was advised that she does not have a conflict of interest as it relates to this item.

Community Development Director Bischoff presented the staff report. He informed the Council that maps developed before 2000 and before the City had a GIS system were done by hand and that the scales of the maps were fairly small. He stated that the location of the separation between areas that might be open space or any other zoning districts is somewhat general. He said that where it was the intent of the City's general plan map to follow a line to define the 500 foot contour and define the area

that should be preserved in open space, the line of separation was located as identified. Pursuant to the City's general plan, it was the intent that only the area above the 500 foot contour line was supposed to be zoned open space and everything below the 500 foot contour line was to be zoned single family residential. Because of the scale of the maps and the inaccuracies of the drafting, the line was placed in an area defined by staff. He stated that the issue before the Council that will be raised by the appellant is that the City should be following the intent of the General Plan as opposed to the letter of the law or the actual location of where the line is drawn on the map presently. He informed the Council that it can overturn staff's decision and grant the appeal, therefore, allowing the project to compete under Measure P. The Council can deny the appeal or approve the appeal with modifications such as requiring that all building envelopes be relocated such that they will be in the area designated R-1. He indicated that it was brought to staff's attention that there was an error in the resolution before the Council relating to conflicting language. Staff has provided the Council with a revised resolution that would approve the appeal request; making findings that it is consistent with the City's general plan.

Mayor Kennedy indicated that in viewing a large scaled copy of the General Plan Map, he noted that it does not contain a line but is color coded. He stated that he would consider the map to be a broad brushed coloring rather than a hard line. He inquired why the Planning Commission did not recommend that the application proceed under the Measure P competition.

Mr. Bischoff indicated that the Planning Commission has not reviewed the appeal application as Measure P states that staff's rejection of an application is appealable directly to the City Council.

Council Member Chang inquired what the 500 foot contour line would show if it was updated with technological equipment at a regular scale.

Mr. Bischoff responded that the City currently has a GIS system that allows staff to create maps that are more accurate. It is his hope that it would be close to following the identified 500 foot contour line. He indicated that the map before the Council is at a scale of 1"=30 feet. He could not identify the exact line but felt that it closely follows the line being shown this evening versus the existing map.

Mayor Kennedy opened the public hearing.

Bruce Tichinin informed the City Council that he represents Mr. Vierra, the applicant. He indicated that the project engineer, Bill McClintock, and his partner in the project, Randy Barbaglia, were in attendance to answer any questions that he could not answer. He felt that Mr. Bischoff rendered an accurate statement of what has taken place. He said that the legal issue being presented to the Council is whether or not in the interpretation of the General Plan, you follow the intention of the City Council regarding where the demarcation for the open space in residential should be, or you follow the impression of the map maker in rendering that intention. He cited the rule of law that he felt applies; that being that the Council should act as if what it intended actually occurred rather than following a mistake. He depicted the 4.5 acre parcel and a 20-acre parcel that is expected to be acquired from the property owner to place in permanent open space and permanent protection.

City Attorney Leichter said that although the issue before the Council is one of whether this proposal complies with the General Plan. She noted that Mr. Tichinin has raised issues about the intent versus the actual language. She indicated that she could address these if the Council so desires. She said that there is also a provision in Measure P that provides, in precise details, that the lands within the City that are designated as open space in the City's general plan land use circulation element map, as amended through March 1, 1990, are reaffirmed and readopted through fiscal year 2009-2010. Therefore, the Council would need to keep this provision of Measure P in mind when it is determining this appeal as the action that the Council takes on the appeal may affect this provision.

Mayor Kennedy said that the language in the general plan clearly states a 50-foot profile line. Therefore, he felt that there may be a conflict between Measure P and the general plan statement.

City Attorney Leichter stated that although Mr. Tichinin has touched upon certain elements of traditional statutory construction laws, she said that there are also other rules of statutory construction law that would also allow the Council to find that those provisions are not inconsistent and that the provision regarding the goal statement supercedes the action statement that talks about the specific 500 foot line. It was her belief that it is not a clear cut question of law as presented by Mr. Tichinin as there are viable arguments that the general plan is in fact consistent and the provisions can be consistent with each other.

Jim Kavitski indicated that he is a new homeowner and resides at the end of West Main Street. He stated that there were several factors that caused him to buy a home in this area; one of which was the low density building. He stated that he bought his home based on the beautiful area around it, particularly El Toro and the open fields. In the course of the home purchase, he became aware that the area around the field was zoned for residential use. However, he was led to believe that the area was zoned open space. Therefore, he was not expecting that there would be dense development going in. He requested that the Council maintain the existing zoning.

Susan Bernadini informed the Council that last summer, she and her husband purchased their residence located at 900 West Main. She felt that their property was the one most affected by the Measure P application. She said that the site is a flag lot and that the front of her home faces this property. She researched the zoning of the surrounding area before purchasing her home. She read the description of the two parcels as depicted in the real estate advertisement. She stated that she spoke to Joan Hall with the Planning division to find out whether the listing was consistent with the general plan and the process for development should someone purchase the parcel. She was told that the property was zoned open space and would have to apply for Measure P allocations, an 18-24 month process. She was advised that the zoning for one acre lots. As the parcel is 4.5 acres, her math told her that this would result in approximately 3-4 homes. She noted that the proposal is for six homes. She said that the Council would hear from owners that they purchased homes in reliance of the City's general plan (open space). She understood that the general plan might change in 2009-2010. She felt that the development was an attempt to bypass and shorten the amount of time to wait for development. She knew that the property was for sale and had no objections to development based on the general plan. She stated that she did not know that a Measure P application was in the process until she saw surveyors on the property. She

expressed concern that the homeowners in the area were not aware of the Measure P application submittal. She requested that the homeowners be placed on a mailing list for future notification for any Measure P application or land use entitlement for the property. She commended the Planning Director for taking a literal interpretation of the general plan because that is what she did.

Council Member Carr inquired whether the 20 acres on the face of El Toro is in the Williamson Act.

Mr. Tichinin responded that the 20-acre parcel is in the Williamson Act but that he could not state that it was in agricultural use. He indicated that the City has received an appraisal of the 20 acre parcel in use as open space and that it was his understanding, for the purposes of condemnation, that the land would have to be acquired according to its value for a single building site. It was his belief that this qualifies and that the partners would be happy to spend the money to prove this fact, if necessary. He indicated that the 20-acre parcel is located in the county and that county zoning would apply. In order to develop a residence on the 20 acres, it must be demonstrated that the lot meets requirements and felt that it would be easy to meet these requirements (e.g., the site has a well that produces at a satisfactory rate and a septic tank leech field area). In order to commence negotiations, it was requested that an appraisal be prepared by the same appraiser used by the City for the open space appraisal. He expects that this would be rendered by the end of January. It is expected that the appraisal will come in at about \$850,000. It was his understanding that there is approximately \$300,000 in Open Space Authority funds that belong to the City that can be applied toward the purchase of scenic open space on El Toro. He said that it was his understanding that there was \$200,000 of in lieu Transfer Development Credits (TDCs) that have been accruing for the specific purpose of purchasing land on El Toro. He stated that he understood that the project would be given credits for 4 TDCs if they did not develop the parcel and conveyed it to the City for open space. He said that TDCs can be sold for approximately \$140,000. He stated that there may be a possibility that they may be able to reduce some of the purchase price through tax deductions that are available to entities that contribute lands to open space or parks. He stated that he was confident that the Measure P proponents can close the gap with the City as soon as possible.

City Attorney Leichter pointed out that the basis of the appeal limits the Council to whether this proposal complies with the general plan. Under section 18.78.100 of the Municipal code, whether the Measure P proponent plans to develop the open space is not before the Council and cannot be considered by the Council as the basis for the appeal. She stated that she would be willing to clarify and offer her interpretation of the situation to Mr. Tichinin.

Mr. Tichinin said that Government Code Section 65300.5 states that the General Plan is required to be an internally consistent and compatible statement of policies for land use. He felt that an inconsistency existed that could not be more clearly illustrated than by the two lines depicted on the map that demonstrate the 500 foot contour line. He requested that the Council follow the intention of its action when it established the demarcation or the acknowledged impression of the map maker in the rendering of the contour line.

Council Member Carr inquired whether there was a suggestion on how the proposed dedicated open space through the Acton property would be accessed.

Mr. Tichinin identified an existing access easement that is 20-feet wide to access the 20-acre parcel for hiking up El Toro.

Mr. Tichinin said that if the Council was to rely on the City Attorney's interpretation of rejecting the application, he requested that the basis be made a part of the record so that he can respond. His comment on the rule of error is also provided for in the General Plan. Had Mr. and Ms. Bernidini checked the General Plan versus the statements contained in real estate description, it would reduce the risk of error. Regarding Mr. Kavitski, he noted that he purchased his lot in reliance that large lots similar to his would be constructed, noting that Mr. Vierra's lots are proposed at three times the size of his lot. He stated that the developer would like to work with all neighbors.

City Attorney Leichter stated that it was her belief that there is an interpretation that is consistent. She said that the provision cited by Mr. Tichinin is an introductory paragraph to the open space goal under the Open Space and Conservation Element that states that lands designated as open space in the Land Use diagram shall remain as open space city-wide. She stated that the conflicting provision being referred to by Mr. Tichinin can be found in Action 4.1 of the Hillside Element. She indicated that this is a subset of the goal that requires preservation of El Toro Mountain in open space above the 500-foot contour line. She said that these can easily be reconciled by stating that you have to have open space depicted on the map. She said that all of the land on El Toro above 500 feet needs to remain as open space. Therefore, this is a consistent interpretation of these provisions. With regards to the intention of the City Council, she felt that the Council has amply demonstrated, by the fact that it adopted Measure P and the General Plan on two separate occasions with the same language, that it saw no need to clarify. She said that the final element of statutory interpretation is that the action is a subset of the general plan which will be subservient to the statement of the overall goals, therefore, this will govern. However, she said that Mr. Tichinin may have a slight argument because the 500 foot line is more specific in nature and perhaps should govern.

Mr. Bischoff indicated that the City's general plan shows the parcel designated single family low which allows for densities up to 3 units per acre. He informed the Council that the 500 foot contour language has been contained in the General plan since 1980.

Council Member Chang noted that it was stated that the City did not have the equipment to precisely depict the 500 foot contour line and this resulted in the contour line being drawn as depicted. Staff further indicated that had a GIS system been used, the line would have been drawn more accurately.

Mr. Bischoff indicated that had a GIS system been used, the line would closely follow the 500 foot contour line. He identified the approximate dividing line between areas designated for open space and single family. He indicated that the line followed may have been drawn as a drafting error or an approximation given the scale of City maps. He noted that one of the speakers made reference to notice. He indicated that the City has a procedure whereby any Measure P application that is processed requires notice be provided to property owners within 300 feet of the Measure P property. The reason neighbors did not receive notice of this Measure P application is attributable to the fact that staff has not accepted

the application for processing. Should the Council decide on the appeal and direct staff to process the application, notice will be provided to the neighbors when the hearings are held before the Planning Commission regarding this and any other applications. He noted that the 20-acre parcel is located above the 25% slope and is within the County. He indicated that some of the County's regulations state that you can build a home up to 30% slope. He said that even though the slope of the parcel is over 20%, you can probably find areas that are less than 20% slope.

Mayor Kennedy indicated that he met with Mr. Tichinin and received an e-mail from one of the nearby neighbors. He felt that should the Council accept the argument that the City should be using the profile line, it should apply to the entire general plan map with respect to El Toro and anywhere else where the City has language that calls out a specific contour line. It was his belief that should the Council make the change here, it would need to be made everywhere in the City for consistency sake.

City Attorney Leichter said that if the City was to use this construction and ignore Measure P provisions, then it would apply to the El Toro 500 foot line, wherever that occurs.

Mr. Bischoff indicated that Measure P does not call for appeals to go before the Planning Commission. He stated that Measure P specifically states that appeals to staff decisions go directly to the City Council. He indicated that the Council has the authority to refer this matter back to the Planning Commission.

Mayor Kennedy felt that it would make sense to refer the appeal to the Planning Commission.

At the request of Council Member Carr, Mr. Bischoff walked the Council through what would happen should the Council approve the appeal. He indicated that staff accepted applications for Measure P several months ago. He stated that the City cannot afford to wait until this one issue is resolved before staff starts scoring other applications. As a general policy, staff has gone ahead and scored this project along with the other Measure P applications in anticipation of the Council concurring with the appeal. The Measure P application process would be such that should the Council determine that the project should be processed, staff would continue with the scoring process. He indicated that Measure P hearings are scheduled to be heard before the Planning Commission in the not too distant future. The Planning Commission would evaluate the relative scoring of all the projects and decide who will receive allocations.

Council Member Carr clarified that the Council was not granting allocations this evening and that the applicant is requesting to be allowed to be a part of the competition process that starts an 18-24 month process.

Mr. Kavitski inquired whether the 500-foot contour line was the ultimate deciding factor that determines open space versus non open space.

Ms. Leichter said that under any construction of Measure P and the General Plan provisions, construction is allowed only up to the 500-foot contour line.

No further comments being offered, the public hearing was closed.

Council Member Tate felt that this was a situation where there were two legal view points on the situation and that he did not know which one was the correct one. It was his belief that the intent was for the 500 foot line but that it does not mean that you automatically approve an action that would violate the law. He recommended that an outside legal opinion from the court be sought to decide the proper interpretation given what is in place at this time. The Council would then abide by whatever court decision is rendered. Having heard both sides and understanding both sides, he could not legally decide what is right. Therefore, having a court rule on what is right would be a good course of action.

Council Member Chang said that in reading the general plan, it states the 500 foot contour line. If the City made a mistake and drew a line in the wrong place, even if incorporated in Measure P, she felt that the line should be corrected.

Council Member Carr stated that he too met with the appellant's representatives and received the same e-mail from one of the residents addressed by Mayor Kennedy. He said that it was the City's intent to follow the contour line and not a straight line when the City drafted the general plan. However, he was not sure if this answers the question of how this and Measure P works together in this case. He noted that the Council has heard some competing arguments. He said that he heard Mr. Tichinin state that he would like to hear more specifically the record so that he can respond to it. He did not know if this would help the Council or not but that this might be something that would give the Council further information. He noted that the Council continues to hear from property owners, when purchasing property, that they are being given misinformation. He understands that a lot of this misinformation has happened as a result of real estate agents telling home buyers that the adjacent property is going to be a park instead of a developed piece of property one day. He was not sure how to address this on the private side. It was his hope that this practice would end soon. He felt that the Council needs to address how it will answer questions from private citizens that are calling city hall and the answers being provided by staff at the counter to individuals interested in buying homes and investing their hard earned money in Morgan Hill. He felt that this was an issue where he understands where there would be some confusion about what the answer would be. However, he felt that the City needs to work on how it deals with customer service. He noted that Council Member Tate has suggested a way that the Council can get another opinion. However, he was not exactly sure of the mechanics of how this would work and felt that this is the direction the Council should take as the Council will be struggling on how it addresses this issue between the intent of the General Plan and the intent of Measure P.

Council Member Tate stated that he too met with the appellant's representative and received an e-mail from one of the adjacent residents. He felt that the City could proceed in parallel with the Measure P application, treating it as though it was potentially in the competition.

Mayor Kennedy felt that there was an important precedent issue in this case that is important, noting that the issue does not solely relate to this small parcel but that it is all of El Toro that is at issue where the lines are drawn. He felt that that the 500-foot contour line needs to be addressed.

Council Member Chang agreed that the 500-foot contour line needs to be addressed as the urban limit line committee is addressing the 490-foot contour line at Paradise Valley as well as the 480-foot contour line on the east side of the hills.

Mayor Kennedy stated that the City needs to be consistent. He felt that Council Member Chang raised a good point as the urban limit line committee is using contour lines very extensively to establish maximum heights as far as the ultimate urban limit line is concerned. He felt that the City needs to be consistent throughout. Therefore, he agreed with the suggestion of seeking a legal opinion and taking time to resolve this issue.

Mr. Tichinin stated that it was his belief that it was incorrect, factually, that the Council's decision on this matter will set a precedent as it was his understanding that this is the only place on the map, regarding El Toro, where there is a conflict between the contour line and the mapping. He did not believe that there was another parcel through which the 500 foot contour line goes that is zoned residential.

Mr. Bischoff stated that he could not make the representation that this is the only place where a conflict exists.

Mayor Kennedy said that as he looks at the general plan map, there are a lot of straight lines across parcel lines.

City Attorney Leichter summarized what she believes are the Council's legal options in this case: 1) deny the appeal; 2) grant the appeal. As Mr. Tichinin believes that there is little precedential value, she did not believe that he would object to indemnifying the City on any future challenges premised on the decision to be taken by the Council this evening or a challenge directly to this decision. 3) Direct either she or Mr. Tichinin to file a declaratory relief action with the court to seek judicial determination of the statutory construction of these conflicting provisions. She stated that the Council could continue to process the Measure P application so that it does not lose focus and put the appeal on abeyance until the court renders a decision.

Council Member Tate stated that he would prefer to proceed with the third action. He stated that he wanted to go on record in support of establishing an accurate 500 foot contour line.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Sellers absent, **Directed** the City Attorney to seek declaratory relief action by the court.*

Ms. Bernadini indicated that it was her belief that by the action taken this evening by the Council is that the appeal would be held in abeyance, yet she knows that there has been a denial of the application. She inquired whether the Council's action would leave the application in abeyance or would the application

proceed in the competition even though there is a denial of the application while the City awaits a court ruling.

City Attorney Leichter concurred with Ms. Bernadini's summation. She said that whatever the court determines would affect how the application is ultimately processed. She stated that the application would need to keep pace in the competition but would not be awarded points or development allocations until such time that the court renders a decision. She indicated that she would clarify the process to Ms. Bernadini.

Mayor Pro Tempore Sellers resumed his seat on the dais.

9. **RESOLUTION AUTHORIZING THE SANTA CLARA COUNTY FIRE MARSHAL TO ABATE WEEDS – Resolution No. 5758**

Assistant to the City Manager Dile presented the staff report. She indicated that Debbie Craver with the Santa Clara County Fire Marshal's Office was in attendance to answer any questions which the Council may have.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** Resolution No. 5758, Authorizing the Santa Clara County Fire Marshal to Abate Weeds.*

City Council and Finance Authority Action

PUBLIC HEARINGS:

10. **REFINANCING OF MORGAN HILL RANCH ASSESSMENT DISTRICT BONDS – SERIES 1994 – 1. – Resolution Nos. 5759, 5760, 5761, 5762 and MHFA-3**

Director of Finance Dilles presented the staff report.

Mayor/President Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

As City Council:

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5759, Declaring its Intention to Issue Refunding Bonds and Directing Preparation of a Reassessment Report.*

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5760, Approving a Reassessment Report and Confirming Reassessments.*

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5761, Authorizing the Issuance and Sale of Bonds*

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5762, Making a Finding of Significant Public Benefit.*

As Finance Authority Commission:

Action: *On a motion by Authority Commission Member Carr and seconded by Authority Commission Member Chang, the Finance Authority Commission unanimously (5-0) **Adopted** Resolution No. MHFA-3, Authorizing the Issuance, Sale and Delivery of Bonds.*

As City Council:

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** Agreements with RBC Dain Rauscher Inc. for Financial Advisory Services and with Richards, Watson & Gershon for Bond Counsel and Disclosure Counsel Services.*

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Directed** the City Manager to Execute these Agreements.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

11. CALIFORNIA PARK AND RECREATION SOCIETY (CPRS) FACILITY DESIGN AWARD FOR THE COMMUNITY AND CULTURAL CENTER

Recreation and Community Services Manager Spier announced that the City of Morgan Hill has been awarded a competitive award from the California Park and Recreation Society for the construction of the Community & Cultural Center. She recognized Management Analyst Margarita Balagso who submitted the application on behalf of the City Council and the community. She said that the application process requires a couple of elected officials to be in attendance at the Showcase Awards to be presented in Anaheim on March 11 and 12, 2004. She requested that the Council identify representatives who can attend the awards presentation on behalf of the City.

Mayor/Chairman Kennedy stated that he read the report prepared by Ms. Balagso and the he was amazed on the quality of the report and the way it was presented. He felt that an outstanding job was done – one that captures the spirit and the intent of the Community and Cultural Center; resulting in the winning of this award. He felt that Director of Community and Development Bischoff's involvement with the management of the overall project as well as his experience and knowledge was valuable in delivering the Center.

Council/Agency Member Tate expressed his appreciation for the work put in all city applications by Ms. Balagso that includes the Library Bond applications.

Mayor/Chairman Kennedy expressed an interest in attending the awards ceremony.

Mayor Pro Tempore/Vice-chair Sellers suggested that Mayor/Chairman Kennedy and at least 1 or 2 staff members attend the awards ceremony. If there are any other Council Member interested and available to attend, that Council Members so advise staff. He felt that the Council needs to minimize costs in this budget era but felt that 1 or 2 other council members may be able to attend.

Action: *By consensus, the Council **supported** the Mayor's attendance at the awards ceremony, along with staff, as appropriate, and any other Council Members who are available to attend.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

The protocol for naming of public facilities (Mayor Pro Tempore Sellers)

Council Member Carr indicated that he and Mayor Pro Tempore Sellers discussed naming of public facilities, recommending that this topic be discussed at the legislative subcommittee and returning to the Council with a recommendation.

Council Services and Records Manager Torrez identified changes to the upcoming Council meetings.

RECONVENE TO CLOSED SESSION

Mayor/Chairman/President Kennedy adjourned the meeting to Closed Session at 8:47 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 9:45 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:45 p.m.

MINUTES RECORDED AND PREPARED BY:

**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY/
AUTHORITY SECRETARY**